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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,536	01/16/2001	Christopher M. Wilkins	41039.P002	5872
25943	7590	07/09/2004	EXAMINER	
SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITES 1600-1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204			LE, KHANH H	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/761,536	WILKINS, CHRISTOPHER M. <i>MW</i>	
	<b>Examiner</b>	<b>Art Unit</b>	3622
	Khanh H. Le		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-46 is/are rejected.
- 7) Claim(s) 9,30 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01/16/2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

### **Detailed Action**

1. This Office Action is in response to the original application. Claims 1-46 are now pending. Claims 1, 5, 19, 26, 40 are independent.

### **Drawing Objections**

2a. Figure 3a and 3b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated ( Flight profiles are admitted as known in the Specifications at page 2 line 30-31). See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### **Claim objections**

2b. **Claims 9 and 30:** It seems “that” is needed between “profiles” and “remain” in the phrase “said desired flight profiles remain to be achieved for said advertisements.” to make grammatical sense. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent,*

*or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**4. Claims 1-3,5-8,15-19, 26-29, 36-40 are rejected under 35 USC 102(e) as being anticipated by Langheinrich et al., US 6,654,725 B1.**

As to claims 1,5, 19, 26, 40, Langheinrich discloses:

A method, system and apparatus for managing advertisement presentation comprising:

an advertisement server (see at least Fig. 1, especially item 103 and associated text) making an initial selection and provision of a plurality of advertisements for a number of client devices for presentation in accordance with corresponding desired flight profiles (interpreted as delivery of profiles such as impressions per user per time period) to be achieved for the advertisements (see at least abstract: display constraints; col. 2 lines 35-41: min. impressions per ad; col. 8 l. 30-40: impressions per user per time period ),

and including with said provision one or more presentation parameters (see at least col.3 lines 30-32 ) to govern the rates (see at least col. 8 lines 30-40: "daily impression rate"; col. 9 lines 14-19; claim 9) in which the provided advertisements are to be presented;

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the client devices selectively presenting said advertisements in accordance with said governing presentation parameters (see at least abstract ), and

reporting their presentations (see at least col. 9 lines 1-11); and

the advertisement server repeating (see at least Fig. 8 and associated text: “learning script”) said selection and provision of advertisements further taking into consideration said reports (see at least col. 9 lines 1-11);

As to claims 2, 6, 27 (dependent on claims 1,5, 26) , respectively , Langheinrich discloses wherein each of said selections and provisions of advertisements comprises probabilistically (interpreted as randomly) selecting said advertisements (see at least col. 8 lines 7-10).

As to claims 3, 7 and 8 (dependent on claims 2 and 5), 28-29, Langheinrich further discloses wherein each of said probabilistic selections comprises determining a set of weights for use to perform the probabilistic selection (see at least col. 8 lines 7-10) and periodically re-determining said weights to be employed for said probabilistic selections (see at least col. 4 lines 22-39).

As to claims 15-18 (dependent on claim 5), 36-39, Langheinrich further discloses selecting and providing of advertisements are further made in view of demographic profiles of said client devices (see at least Fig. 11 and associated text), subject matters of searches (see at least abstract), in response to searches (see at least col. 6 lines 14-22 ) and requests for additional advertisements (see at least col. 7 lines 1-36) being performed by said client devices.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

6. **Claims 4,13-14,20,21-22, 34-35, 41,42-43, are rejected under 35 U.S.C. 103(a) as being unpatentable over Langheinrich in view of Gerace, US 5848396, hereinafter Gerace.**

As to claims 4, (dependent on claim 1) and 13, 14 (dependent on claim 5), 20, 41, 34-35, Langheinrich further discloses:

said one or more presentation parameters comprise a minimum presentation parameter (see at least col. 3 lines 30-32; col. 2 lines 35-41; col. 8 lines 30-40 ); and each of said selections and provisions of advertisements comprises determining and providing one each of said minimum presentation parameter for each selected advertisement in view of a presentation rate to be achieved. (see at least col. 8 lines 30-40).

Langheinrich does not specifically disclose a maximum presentation parameter though many display constraints including a minimum are taught at col. 2 lines 35-41.

Further Gerace, discloses customization of web pages based on behavior profiling (abstract, Fig 3a, 4a and associated text, col 15 ) and ad presentation constraints, including maximum presentation constraints, at col 12, l. 22 et seq., and Fig 5c and associated text : "...the

*hour of the day in which the ad/ad series is to start and end, the days of the week on which the ad/ad series is to be displayed, and the beginning and ending dates and times of the ad/ad series. ..the maximum number of views in a series to be displayed per user and per user per day.”*

It would have been obvious to one skilled in the art at the time of the invention, to add Gerace's maximum presentation constraints to Langheinrich's ads display constraints, to define the limits and costs of the ad campaign.

As to claims 21-22 and 42-43(dependent on claims 20 and 41) , tracking the number of times each of said received advertisements has been selected for presentation and rendering an advertisement ineligible for selection for presentation when the number of times the advertisement has been selected for presentation reaches the advertisement's maximum presentation parameter is implied in the display constraints and script learning teachings of Langheinrich and/or it would have been obvious to one skilled in the art at the time of the invention to include such features into the Langheinrich system in order to effect the desired display and campaign constraints as taught by Langheinrich.

**7. Claims 9-10, 30-31, 11-12, 24-25, 32-33, 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langheinrich.**

As to claims 9-10, 30-31 (dependent on claim 8),

“Desired flight profiles” are admittedly known, as evidenced by the background discussion at pages 2-3 of the Specifications. Further Langheinrich discloses aggregating reported presentations, and determining residual amounts of the desired ad campaigns of the advertisements that remain to be achieved. (see at least col. 8 lines 33-36). As discussed below (see discussion of claim 11), Langheinrich also discloses selection of ads using weights. Thus

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Langheinrich discloses selection of ads using weights while taking into account residual amounts of the desired ad campaigns of the advertisements that remain to be achieved.

However Langheinrich does not disclose each of said weight determinations is made in accordance with residual amounts of desired flight profiles that remain to be achieved for said advertisements.

It would have been obvious to one skilled in the art at the time the invention was made to add desired flight profiles to Langheinrich 's system of selection of ads using weights while taking into account residual amounts of the desired ad campaigns of the advertisements that remain to be achieved to allow using the Langheinrich's ad selection method in the particular situation of "desired flight profiles" which are admittedly known and which are only other types of ad campaigns.

As to claims 11 (dependent on claim 7), and 32, Langheinrich discloses probabilistic (random) ad selections in conjunction with use of said weights (see at least Fig. 6, item 2005, and associated text) but does not specifically disclose successively generating a plurality of random numbers, and using said successively generated random numbers, in conjunction with said weights, to successively select said advertisements.

Official Notice is taken that it is well-known to successively generate random numbers to randomize data sets. Thus it would have been obvious to one skilled in the art at the time of the invention to add successively generating a plurality of random numbers for use to perform the random ad selection, used in conjunction with weights as taught by Langheinrich as it is one well-known randomization technique.

As to claims 12 (dependent on claim 6), and 33, Langheinrich discloses probabilistic (random) ad selections but does not specifically disclose generating a plurality of random numbers for use to perform the probabilistic selection. Official Notice is taken that it is well-known to generate random numbers to randomize data sets. Thus it would have been

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obvious to one skilled in the art at the time of the invention to add generating a plurality of random numbers for use to perform the random ad selection taught by Langheinrich as it is one well-known randomization technique.

As to claim 24 and 45 (dependent on claim 19 and 40), Langheinrich impliedly discloses informing an advertisement server of demographic data of the client device (see Langheinrich at claim 13) .

As to claim 25 and 46 . (dependent on claim 19 and 40), Langheinrich discloses informing an advertisement server of subject matters of searches being performed by the client device (see at least abstract).

**8.     Claims 23 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langheinrich in view of Reilly , US 5740549.**

As to claim 23, 44 (dependent on claims 19 and 40) , determining whether additional advertisements are needed, and requesting an advertisement server for additional advertisements is not specifically taught by Langheinrich but Reilly discloses such (see at least Fig. 12 and associated text). It would have been obvious to one skilled in the art at the time of the invention to include this feature to Langheinrich's system in order to provide additional ads as needed to replace those already viewed or expired as taught by Reilly.

**Conclusion**

**9.     Prior art made of record and not relied upon is considered pertinent to applicant's disclosure.**

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Herz, US 6460036 , discloses targeted e-news and ads using selection by weighted randomization.

Adler, US 6009409, discloses system for delivery of ads based on desired user time/geometry frequency

Lazarus, US 6134532, discloses system for optimal of users to entities and information in real time.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 703-305-0571. The Examiner works a part-time schedule and can normally be reached on Tuesday-Thursday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113

Mar 17, 2004

*kan*  
KHL

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